S.B. CIVIL WRIT PETITION NO.2565/2005

Idrees Mohammed Vs. Hamandir Kumar Joshi.

Date : 25.5.2005

HON'BLE MR. PRAKASH TATIA, J.

Mr. Parikshit Nayak, for the petitioners.
Mr. Manish Shishodia, for the respondent.

- - - - -

Heard learned counsel for the parties.

The petitioners submitted affidavit in support of his case in Civil Suit No.6/2003. The petitioners are seeking amendment in affidavit by filing application under Section 151 CPC. The said application was dismissed by the trial court by the order dated 21.3.2005. Hence, this writ petition.

No provision of law has been shown by learned counsel for the petitioners by which an affidavit can be amended. The affidavit of the deponent cannot be amended after its verification by the Oath Commissioner/Notary Public and if there is any mistake in the affidavit, that can only be explained in accordance with law and for that purpose, the deponent may submit an appropriate affidavit explaining the facts in which the earlier affidavit was filed and the Court may consider in its discretion whether to permit the deponent to explain the facts admitted (according to the

deponent wrongly).

In view of the above, I do not find any illegality in the impugned order passed by the court below so as to call for interference by this Court under writ jurisdiction.

In view of the above, I do not find any merit in this writ petition and the same is hereby dismissed.

The stay order granted by this Court on 4.5.2005 is vacated and the stay petition is dismissed.

(PRAKASH TATIA), J.

S.Phophaliya